

NR:VTN
F. #2017R02104

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

- against -

KENNETH MCFADDIN,

Defendant.

Filed Under Seal

COMPLAINT AND
AFFIDAVIT
IN SUPPORT OF
APPLICATION
FOR AN ARREST
WARRANT

(18 U.S.C. § 876(c))

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No. 20-MJ-850

EASTERN DISTRICT OF NEW YORK, SS:

Stephen Anest, being duly sworn, deposes and states that he is a Special Agent with the United States Department of Homeland Security, Federal Protective Service (“FPS”), duly appointed according to law and acting as such.

In or about June 2016, within the Eastern District of New York and elsewhere, the defendant KENNETH MCFADDIN did knowingly deposit in a post office or authorized depository for mail matter, to be sent or delivered by the United States Postal Service or knowingly cause to be delivered by the United States Postal Service according to the direction thereon, any communication with or without a name or designating mark subscribed there to, addressed to any other person and containing a threat to injure the person of the addressee or another.

(Title 18, United States Code, Section 876(c))

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Special Agent with the FPS since 2016 and have been involved in the investigation of numerous cases involving crimes affecting government infrastructure, services and employees, including threats made against federal employees, by mail and other means. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about June 9, 2016, a manila envelope was delivered to the mailroom of the Social Security Administration ("SSA") located at 155-10 Jamaica Avenue, in Jamaica, New York (the "Envelope"). A mailroom employee ("Employee-1") examined the Envelope and determined that it had arrived at the SSA because the Envelope had been marked by the United States Postal Service with a "Return to Sender" label, and the return address on the Envelope listed a P.O. Box in Jamaica, New York where the SSA receives mail. Employee-1 further determined that the SSA had not been the true sender of the Envelope because the Envelope had been sent using common postage stamps instead of electronically metered postage, which is the standard process for mailings sent by the SSA.

3. Employee-1 opened the Envelope and found what appeared to be a pamphlet or magazine clipping. Finding the contents of the Envelope to be suspicious,

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

Employee-1 requested the assistance of his supervisor (“Employee-2”). Employee-2 examined the Envelope and its contents more thoroughly and observed two individually wrapped condoms and an unknown white powdery substance. Based on the belief that the unknown white powdery substance was possibly biohazardous, the mailroom was evacuated and the New York City Police Department (“NYPD”) was called to respond.

4. Members of the Weapons of Mass Destruction Unit of the NYPD responded and performed chemical identification tests on the white powdery substance and determined that the substance was talcum powder. Postal Inspectors from the United States Postal Inspection Service (“USPIS”) and Special Agents from the Federal Bureau of Investigation (“FBI”) also responded and participated in the investigation. The Envelope and its contents were collected as evidence.

5. I have examined the Envelope and its contents. The Envelope was addressed to an individual (the “Addressee”) at a specific address in Bronx, New York (the “Bronx Address”). The Envelope contained a pamphlet (the “Pamphlet”) entitled “The Complete Materials Guide Chart” which appears to be a publication related to the Church of Scientology. An unsigned handwritten letter written to the Addressee’s middle name appeared on one side of the Pamphlet. The letter asked about the Addressee’s sexual activities and partners and informed the Addressee that others believe that he has a sexually transmitted disease. Taped to the Pamphlet were four individually wrapped condoms and two lubricant packets.

6. Pieces of tape that were affixed to the Envelope were examined for the presence of fingerprints by the Latent Print Unit of the FBI. An FBI examiner identified a

latent fingerprint from a piece of tape that was affixed to the Envelope as belonging to the defendant KENNETH MCFADDIN.

7. The Envelope was also examined by the FBI's Laboratory Division for the presence of DNA. The flap of the Envelope and the corresponding region on the Envelope to which the flap was adhered were swabbed and DNA from a single male source that is suitable for comparison was detected.

8. As part of the investigation, on October 21, 2016, I spoke with an individual ("John Doe") who resided at the Bronx Address. He informed me, in sum, substance and part, that a man who had the same name as the Addressee² (the "Former Resident") had lived at the Bronx Address with John Doe for about twenty years until two years earlier, when the Former Resident moved out. John Doe further stated that he had received approximately three "angry letters" in the mail addressed to either himself or the Former Resident at the Bronx Address in the approximately six months prior to the interview. John Doe had saved one of the mailings ("Mailing-1"), which he gave to me; he informed me that he had discarded the other mailings.

9. The envelope for Mailing-1 was addressed to an individual at the Bronx Address, listed a return address of "Mrs. [variant of Addressee name]," also at the Bronx Address, and had been marked by the United States Postal Service with a "Return to Sender" label, dated November 16, 2015. Among the items contained in Mailing-1 was a two-page handwritten letter written on notepaper to a variation of the Addressee's first name in which the author talked about the Addressee's sexual partners and sexual activities. Mailing-1

² The spelling of the Addressee's name on the Envelope and the name of the individual who had previously resided at the Bronx Address differed by one letter.

was examined by the FBI's Latent Print Unit. An FBI examiner identified a latent fingerprint from a piece of notepaper that was included within Mailing-1 as belonging to the defendant KENNETH MCFADDIN.³ Based on my observations of the handwriting and content of the notepaper, it appeared to me to have been written by the same person who wrote on the Pamphlet described above.

10. Mailing-1 was also examined by the FBI's Laboratory Division for the presence of DNA. DNA from a single male source that is suitable for comparison was detected on two different items that were part of Mailing-1, including on the flap of the envelope.

11. On August 30, 2017, I interviewed John Doe again and asked if John Doe was familiar with the defendant KENNETH MCFADDIN. In sum, substance and part, John Doe said that he knew MCFADDIN and that MCFADDIN and the Addressee knew one another. John Doe further stated that MCFADDIN had not had access to nor handled Mailing-1 since John Doe had received Mailing-1 at the Bronx Address.

12. On or about April 16, 2019, the government obtained a DNA sample in the form of a buccal swab from the defendant KENNETH MCFADDIN, pursuant to a search warrant. The FBI's Laboratory Division compared MCFADDIN's DNA sample with the DNA from the Envelope and Mailing-1. The FBI's Laboratory Division determined that (1) there was "limited support" for including MCFADDIN as a contributor to the DNA found on

³ The FBI examiner also identified latent fingerprints from Mailing-1 and its contents which matched to John Doe and a second individual to whom John Doe had shown Mailing-1 and allowed to touch and examine Mailing-1.

the Envelope; and (2) there was “very strong support” for including MCFADDIN as a contributor to the DNA found on flap of the envelope that was part of Mailing-1.

13. Based on my training and experience and from having participated in joint investigations with other state and federal law enforcement agencies involving threatening communications, suspicious mail items such as the Envelope presented in this case, which appear to contain biological agents, such as anthrax or ricin, are a well-known and recognized category of mail-born threat. Similar suspicious mail items are also commonly used as part of a hoax in which the mail items are designed to present the appearance of a dangerous substance or other threat, but do not contain the actual substance necessary to cause harm.

14. According to the Best Practices for Mail Screening and Handling Processes: Guide for the Public and Private Sectors issued by the United States Department of Homeland Security, the most common type of hoax is the “white powder envelope” in which any white powdery substance can be used to create the impression of anthrax. Sugar substitutes, baby powder, corn starch and other similar looking substances are used to simulate anthrax, leading to the evacuation of mail centers and office buildings.

WHEREFORE, your deponent respectfully requests that the defendant KENNETH MCFADDIN, be dealt with according to law. Your affiant also respectfully requests that this affidavit and any issued arrest warrant be sealed as the defendant remains at

large and public disclosure of this affidavit and/or arrest warrant may lead him to flee or otherwise seek to avoid apprehension.



Stephen Anest
Special Agent
United States Department of Homeland Security,
Federal Protective Service

Sworn to before me this
22 day of September, 2020

/s/ Roanne L. Mann

THE HONORABLE ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
 for the
 Eastern District of New York

United States of America

v.

KENNETH MCFADDIN

)
) Case No. 20-MJ-850
)
)
)
)
)

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested) KENNETH MCFADDIN,
 who is accused of an offense or violation based on the following document filed with the court:

- Indictment Superseding Indictment Information Superseding Information Complaint
 Probation Violation Petition Supervised Release Violation Petition Violation Notice Order of the Court

This offense is briefly described as follows:

18 U.S.C. § 876 - Mailing threatening communications

Date: 09/22/2020

/s/ Roanne L. Mann

Issuing officer's signature

City and state: Brooklyn, New York

Magistrate Judge Roanne L. Mann

Printed name and title

Return

This warrant was received on *(date)* _____, and the person was arrested on *(date)* _____
 at *(city and state)* _____.

Date: _____

Arresting officer's signature

Printed name and title

This second page contains personal identifiers provided for law-enforcement use only and therefore should not be filed in court with the executed warrant unless under seal.

(Not for Public Disclosure)

Name of defendant/offender: _____

Known aliases: _____

Last known residence: _____

Prior addresses to which defendant/offender may still have ties: _____

Last known employment: _____

Last known telephone numbers: _____

Place of birth: _____

Date of birth: _____

Social Security number: _____

Height: _____ Weight: _____

Sex: _____ Race: _____

Hair: _____ Eyes: _____

Scars, tattoos, other distinguishing marks: _____

History of violence, weapons, drug use: _____

Known family, friends, and other associates (*name, relation, address, phone number*): _____

FBI number: _____

Complete description of auto: _____

Investigative agency and address: _____

Name and telephone numbers (office and cell) of pretrial services or probation officer (*if applicable*): _____

Date of last contact with pretrial services or probation officer (*if applicable*): _____

**TO: Clerk's Office
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**



**APPLICATION FOR LEAVE
TO FILE DOCUMENT UNDER SEAL**

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF APPLICATION FOR ARREST
WARRANT

20-MJ-850
Docket Number

SUBMITTED BY: Plaintiff _____ Defendant _____ DOJ
Name: Virginia Nguyen
Firm Name: USAO EDNY
Address: 271 Cadman Plaza East
Brooklyn, NY 1102
Phone Number: (718) 254-6280
E-Mail Address: Virginia.Nguyen@usdoj.gov

INDICATE UPON THE PUBLIC DOCKET SHEET: YES NO
If yes, state description of document to be entered on docket sheet:

A) If pursuant to a prior Court Order:

Docket Number of Case in Which Entered: _____
Judge/Magistrate Judge: _____
Date Entered: _____

**B) If a new application, the statute, regulation, or other legal basis that
authorizes filing under seal**

**ORDERED SEALED AND PLACED IN THE CLERK'S OFFICE,
AND MAY NOT BE UNSEALED UNLESS ORDERED BY
THE COURT.**

DATED: September 22, 2020 Brooklyn, NEW YORK

/s/ Roanne L. Mann

U.S. MAGISTRATE JUDGE

RECEIVED IN CLERK'S OFFICE _____

DATE

MANDATORY CERTIFICATION OF SERVICE:

A.) A copy of this application either has been or will be promptly served upon all parties to this action, B.) Service is excused by 31 U.S.C. 3730(b), or by the following other statute or regulation: _____; or C.) This is a criminal document submitted, and flight public safety, or security are significant concerns. (Check one)

09/22/2020
DATE

The handwritten signature of Virginia Nguyen in blue ink.
SIGNATURE